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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,836	06/28/2001	Wendy Victoria Jane Young	CM1869M/VB	5673

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EXAMINER

GOLLAMUDI, SHARMILA S

ART UNIT PAPER NUMBER

1616

DATE MAILED: 08/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,836

Applicant(s)

YOUNG ET AL.

Examiner

Sharmila S. Gollamudi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Preliminary Amendment A filed on January 30, 2001 is acknowledged.

Claims 1-15 are included in the prosecution of this application.

Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

Claim 3 is objected to because of the following informalities: the proper Markush language is "from the group consisting of". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-9, and 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hughes (5567428).

Hughes discloses a hair conditioner containing a non-volatile polysiloxane resin (col. 11 to col. 12), a dimethicone copolymer, and lipid material (cetyl alcohol) (Note example IX and X). Hughes discloses the substituent group is selected from aryl, arylalkyl, and alkaryl (col. 12, lines 24-40). The reference discloses a viscosity of 100 centistokes and the preference for MQ resins (col. 11, lines 4-15 and col. 11, lines 66). A hair conditioner and shampoo are taught in example IX and X.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes (5567428).

Hughes discloses a hair conditioner containing a non-volatile polysiloxane resin (col. 11 to col. 12), a dimethicone copolymer, and lipid material (cetyl alcohol) (Note example IX and X). Hughes discloses the substituent group is selected from aryl, arylalkyl, and alkaryl (col. 12, lines 24-40). The reference discloses a viscosity of 100 centistokes and the preference for MQ resins (col. 11, lines 4-15 and col. 11, lines 66). A hair conditioner and shampoo are taught in example IX and X.

Hughes does not exemplify where the polysiloxane is a 2-phenylpropyl polysiloxane resin. Although Hughes teaches all the substituent groups, he does not exemplify all the groups. Further, a packaged product is not taught.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to any one of the suggested substituent groups suggested by Hughes with the expectation of similar results since the reference teaches that they are all suitable. It is deemed obvious to one of ordinary skill in the art at the time the invention was made for one to place the composition in a packaged container in order to make it available to the consumer.

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Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes (5567428) in view of GB 2297757.

As set forth above, Hughes teaches topical personal care compositions containing polysiloxane resins.

Hughes does not teach the instant polysiloxane resin.

GB teaches a low viscosity organofunctionalised siloxysilicates. The low viscosity property allows for high loading of active ingredients without the deleterious effects such as difficulty in spraying, etc. (pg. 2). GB teaches the modified siloxysilicates possess high refractive indexes than other alkyl substituted siloxysilicates (pg. 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Hughes and GB since GB teaches the modifies resins have a high refractive indexes for shine.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pings (5482703) in view of GB 2297757.

Pings discloses a hair conditioning composition containing dimethicone copolyol (col. 3), nonvolatile polydimethylsiloxane, lipid material (col. 4, lines 60-65), and a cationic surfactant (col. 5) in instant amounts (Note claim 1 and examples).

Pings does not teach the instant polysiloxane resin.

GB teaches a low viscosity organofunctionalised siloxysilicates for hair care compositions. The low viscosity property allows for high loading of active ingredients without the deleterious effects such as difficulty in spraying, etc. (pg. 2). GB teaches the

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modified siloxysilicates possess high refractive indexes than other alkyl substituted siloxysilicates (pg. 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings since GB teaches the modified resins have a high refractive indexes for shine and soil resistance. It is deemed obvious to one of ordinary skill in the art at the time the invention was made for one to place the composition in a packaged container in order to make it available to the consumer.

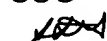
Conclusion

Any inquiry concerning this communication from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is (703) 305-2147. The examiner can be normally reached M-F from 7:30 am to 4:15pm.

If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached at (703) 308-4628. The fax number for this organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is (703) 308-1235.

SSG



August 5, 2002


MICHAEL G. HARTLEY
PRIMARY EXAMINER